Single Bench

(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CG)

WRIT PETITION NO. 4720 OF 2004

BETWEEN

Sandeep Kumar Mishra S/o Mahesh Kumar Mishra, aged about 23 years, occupation Constable, presently resident of At Bodari, Chakrabhata, Bilaspur, District Bilaspur (CG).

PETITIONER

P.R. No. 4717/Cr
Presented by Shri Sumit Dahu
dated 02-12-04

AND

1. The State of Chhattisgarh, through the Secretary of Home Affairs, Mantralay, D.K.S. Building, Raipur.

2. The Director Genral of Police, Police Headquarter, Raipur (CG).

3. The Additional Director General of Police, CG, PHQ, Raipur (CG).

4. The Commandant, 2nd Battalion Chhattisgarh Armed Force, Sakri, Bilaspur (CG).

RESPONDENTS

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WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

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(60)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 4720 of 2004

Petitioner — Sandeep Kumar Mishra

Versus

Respondents — The State of Chhattisgarh and others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Present: Mr. Awadh Tripathi, Advocate for the petitioner.
Mr. Arvind Dubey, Panel Lawyer for the respondents/State.

ORDER

(Passed on 2nd Day of February, 2007)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. The petitioner was selected for appointment on the post of Constable (G.D.) in Commandant, 2nd Battalion, Chhattisgarh Armed Forces, Sakri, District-Bilaspur, vide order dated 5.8.2004 (Annexure P/1), temporarily on the pay scale of Rs. 3050-75-3980-80-4590. The condition of the appointment was that the services of the petitioner could be terminated with one month's notice or payment of one month's salary in lieu of notice. His services could be terminated if, verification/attestation form was found false, subsequently or on discovery of any information with regard to his character verification, which makes the petitioner unsuitable for the job.

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2. Vide order dated 23.9.2004 (Annexure P/2), the services of the petitioner was removed with one month's salary on the ground of violation of the condition No. 4 whereunder, the petitioner had submitted false information in the attestation form. The charge sheet for offences punishable under Sections 341, 323, 294, 506B and 427/34 of the Indian Penal Code was filed against the petitioner, which resulted into compromise on 17.4.2001 in the Court of Chief Judicial Magistrate, Mahasamund (Annexure P/4).

3. In the attestation form (Annexure R-1) Column No. 12 required certain information. Column No. 12 of the said attestation from was filed by the petitioner as under:-

"12. (क) क्या आप कभी गिरफ्तार किए गए है । क्या आप पर कभी अभियोजन चलाया गया है । क्या आप कभी निरूद्ध किए गए है या आपसे मुचलका लिया गया है । आप पर जुर्माना किया गया है । क्या आप किसी अपराध के लिए न्यायालय द्वारा दोषी ठहराये गये है या आपको किसी भी लोक सेवा आयोग द्वारा उनके द्वारा संचालित परीक्षाओ/किए जाने वाले चयनों में सम्मिलित होने से वर्जित किया गया है/उसके लिए अनर्ह ठहराया गया है या क्या आपको किसी भी विश्वविद्यालय या किसी भी अन्य शैक्षणिक प्राधिकरण/संस्था द्वारा किसी भी परीक्षा में बैठने से वर्जित किया गया है/निष्कासित किया गया है । नहीं

(ख) क्या इस अनूप्रमाणन फार्म को भरते समय किसी भी न्यायालय, विश्वविद्यालय या किसी भी शैक्षणिक प्राधिकरण/संस्था में आपके विरूद्ध कोई मामला लंम्बित है । यदि (क) अथवा (ख) में पूछे गये प्रश्नों के संबंध में आपके उत्तर हां में हो तो आपको इस अनुप्रमाणन फार्म को भरते समय मामलेख गिरफ्तारी निरोध जुर्माने दोषसिद्ध तथा द्रण्डादेश आदि के पूरे ब्यौरे प्रस्तुत करने चाहिए तथा इस फार्म को भरते समय न्यायालय/विश्वविद्यालय/शैक्षिणक प्राधिकरण आदि के समक्ष जो मामला लंबित हो उसका स्वरूप बतलाना चाहिए

इस जानकारी के अतिरिक्त जहां लागू हो वहां निम्नलिखित ब्यौरे भी दिए जाएगें– नहीं

1. अपराध/आरोप नहीं
2. पुलिस थाने में पंजीयित नहीं
3. यदि न्यायालय में चालान प्रस्तुत किया गया हो तो न्यायालय का नाम नहीं
4. मामले का कमांक न्यायालय द्वारा उसका निपटारा किस तारीख को किया गया । नहीं
5. दिया गया दण्ड नहीं
6. क्या दोषमुक्त कर दिया गया । नहीं
7. दोषमुक्ति संदेह के लाभ पर आधारित थी या मामला ले लिया गया था । नहीं

The petitioner despite being charge sheeted for the offences stated above filled-up 'No' every where. It appears that with clear intention of concealing the facts, the petitioner filled-up the form as aforestated. It was contended by learned counsel appearing for the petitioner that the petitioner had not suppressed any material or given false information when the application was filed.

4. Learned counsel appearing for the respondents/State, per contra, submitted that the petitioner has deliberately suppressed the information with regard to charge sheet and thereafter with regard to his Challan and registration of the case in the Police Station for the offences (Supra) committed by him. Required information in Column No. 12 is specific inquiry and it was case of no confusion. The same was also not the case of the petitioner. F.I.R. was filed, the criminal case was registered, and the petitioner was arrested and released thereafter. Challan was filed in the Court of Chief Judicial

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Magistrate, Mahasamund. Thus, suppression of these material informations entail removal from service, clearly prescribed in the appointment order. The petitioner had not attempted to remove the mistake voluntarily.

5. I have heard learned counsel for the parties, perused the pleadings and documents appended thereto. It is evident that the petitioner has given false information in Column No. 12 of the attestation form by stating 'No' in all the sub columns. The petitioner had thereafter not submitted any representation or filed a letter immediately, voluntarily to give the correct information.

6. In the case of **Kendriya Vidyalaya Sangathan and others Vs. Ram Ratan Yadav**[1], the supreme Court held in para 12 as under:-

> "12. The object of requiring information in columns 12 and 13 of the attestation form and certification thereafter by the candidate was to ascertain and verify the character and antecedents to judge his suitability to continue in service. A candidate having suppressed material information and/or giving false information cannot claim right to continue in service. The employer having regard to the nature of the employment and all other aspects had the discretion to terminate his service, which is made expressly clear in para 9 of the offer of appointment....."

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7. Further in the matter of **Secy., Deptt. of Home Secy., A.P. and others Vs. B. Chinnam Naidu**[2], relied by learned counsel appearing for the petitioner, the Supreme Court held as under:-

> "As is noted in Kendriya Vidyalaya Sangathan case[1] the object of requiring in various columns like column 12 of the attestation form and declaration thereafter by the candidate is to ascertain and verify the character and antecedents to judge his suitability to enter into or continue in service. When a candidate suppresses material information and/or gives false information, he cannot claim any right for appointment or continuance in service. There can be no dispute to this position in law....."

8. The facts of the case of Secy., Deptt. of Home Secy., A.P. and others Vs. B. Chinnam Naidu (Supra) was entirely different, as discussed by the Hon'ble Supreme Court in the said case, the candidate was not required to submit information asto whether he has arrested or any case was pending. In the present case, Column No. 12 specifically required information asto whether any case was registered in the Police Station, whether the Challan was filed in the Court, if so, name of the Court, date of the disposal of the case, punishment etc. The petitioner did not fill-up the required information, as such the final order passed in the case of Secy., Deptt. of Home Secy., A.P. and others Vs. B. Chinnam Naidu (Supra)

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being different is not applicable to the present case. The petitioner had obtained the appointment by suppressing information and submitting false information. Thus, the services of the petitioner was rightly terminated being in violation of the condition No. 4 of the appointment order.

9. As a result, for the reasons hereinabove, the writ petition is dismissed summarily. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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1. {(2003) 3 SCC 437}
2. {(2005) 2 SCC 746}

Subhash